

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  QWEST COMMUNICATIONS CORPORATION	DOCKET NOS. TCU-03-13 WRU-03-48-419
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**ORDER GRANTING APPLICATION AND WAIVER**

(Issued September 16, 2003)

On August 4, 2003, Qwest Communications Corporation (QCC) filed with the Utilities Board (Board) an application for a certificate of public convenience and necessity pursuant to Iowa Code § 476.29 (2003), stating its intention to provide local exchange telecommunications service in Iowa outside of the areas currently being served by its affiliate, Qwest Corporation (Qwest). The application has been identified as Docket No. TCU-03-13. QCC has provided financial statements and the qualifications of its company officers.

On September 2, 2003, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), filed comments in this docket. Iowa Telecom stated that while it does not intend to participate in this docket, it does request that QCC notify all affected local exchange carriers when it files its tariffs with the Board for the completion of the certification process. No other comments were received.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Board finds that the applicant “possesses the technical,

financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest.”

The Board has reviewed QCC’s application and finds the necessary technical, financial, and managerial abilities to provide local exchange service have been demonstrated. The Board also finds it is in the public interest to approve QCC’s application.

Iowa Code § 476.29(4) requires that each certificate define the service territory in which landline local telephone service will be provided and authorizes the Board to promulgate rules establishing the requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have maps on file with the Board that show exchange boundaries.

QCC states that it intends to provide service throughout Iowa outside of Qwest’s service territory. QCC also states that it may be providing services through combinations of resale, the use of unbundled network elements, or by the construction of its own facilities and, as such, QCC states that it will commence the appropriate interconnection agreement negotiations with incumbent local exchange utilities. QCC states that after interconnection and operational arrangements for providing service are complete, it will file appropriate tariffs and maps with the Board prior to offering services.

QCC has not filed proposed tariffs for Board approval setting out the prices, terms, and conditions of QCC's local exchange service in Iowa. In addition, QCC has

not stated it will support a 2-PIC methodology for dialing parity. The Board finds that a certificate should not be issued to QCC until it has approved tariffs on file with the Board and has stated its commitment to support a 2-PIC methodology.

QCC also requests the Board waive the requirements of 199 IAC 16.5, 18.2, and 22.3(1). The waiver request has been identified as Docket No. WRU-03-48-419.

QCC requests a waiver of 199 IAC 16.5(2), which requires the keeping of a records accounting system in accordance with the FCC uniform system of accounts. QCC states it will maintain its books in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted since records kept in accordance with GAAP accounting have been acceptable for a competitive local exchange service provider.

QCC also requests the requirements of 199 IAC 18.2 be waived. The rule requires that a regulated public utility keep its records in Iowa. The Board will grant the waiver based on QCC's statement that it will make the records available to the Board upon request.

QCC also requests a waiver of 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant the waiver based upon QCC's statement that it will arrange for its customers to be included in the directories published in the areas it provides local exchange service.

Rule 199 IAC 1.3 states that the Board may waive its rules if it finds, based upon clear and convincing evidence, that the application of the rule would pose an

undue hardship, the waiver would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests as described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on QCC because each rule would involve additional expense without necessity or benefit. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantially equal protection for health, safety, and welfare provided since the actions waived will be completed under different circumstances.

**IT IS THEREFORE ORDERED:**

1. The application for a certificate of public convenience and necessity filed by Qwest Communications Corporation on August 4, 2003, is granted subject to the requirements that follow.

2. The Board will issue a certificate of public convenience and necessity allowing Qwest Communications Corporation to provide local exchange service upon a commitment to support a 2-PIC methodology for dialing parity and upon approval of

tariffs reflecting the prices, terms, and conditions of local exchange service in Iowa. At the time Qwest Communications Corporation files proposed tariffs with the Board, it must give notice to all affected carriers.

3. Before offering local exchange services, Qwest Communications Corporation shall file with the Board appropriate maps that designate its exchange boundaries pursuant to Iowa Code § 476.29(4) and 199 IAC 22.20(3).

4. The waiver of 199 IAC 16.5(2), 18.2, and 22.3(1), identified as Docket No. WRU-03-48-419, is granted as described in this order.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 16<sup>th</sup> day of September, 2003.